

GAC Advice Response Form for Applicants



The Governmental Advisory Committee (GAC) has issued advice to the ICANN Board of Directors regarding New gTLD applications. Please see Section II of the [GAC Buenos Aires Communiqué](#) for the full list of advice on individual strings, categories of strings, and strings that may warrant further GAC consideration.

Respondents should use this form to ensure their responses are appropriately tracked and routed to the ICANN Board for their consideration. Complete this form and submit it as an attachment to the ICANN Customer Service Center via your [CSC Portal](#) with the Subject, “[Application ID] Response to Buenos Aires GAC Advice” (for example “1-111-11111 Response to Buenos Aires GAC Advice”). All GAC Advice Responses to the GAC Buenos Aires Communiqué must be received no later than 23:59:59 UTC on 06-January-2014.

Respondent:

Applicant Name	Application ID	Applied for TLD (string)
Knob Town, LLC	1-1340-40734	accountants
Lone Maple, LLC	1-1343-89689	app
Spring Frostbite, LLC	1-1342-7920	architect
Baxter Tigers, LLC	1-1344-70608	art
Baxter Hill, LLC	1-1345-27582	associates
Victor North, LLC	1-1348-99321	attorney
Holly Castle, LLC	1-1349-23181	audio
Auburn Hollow, LLC	1-1350-42613	band
Foggy Way, LLC	1-1359-21671	bet
Sand Cedar, LLC	1-1360-70873	bingo
Double Bloom, LLC	1-1361-60591	book
Goose North, LLC	1-1365-11798	broadway
Spring North, LLC	1-1364-8001	broker
Delta Mill, LLC	1-1375-20218	capital
Goose Cross, LLC	1-1374-92093	care
Delta Lake, LLC	1-1381-76948	cash
Binky Sky, LLC	1-1382-33633	casino
Corn Lake, LLC	1-1384-49318	charity
Snow Sky, LLC	1-1389-12139	city
Black Corner, LLC	1-1390-429	claims
Goose Park, LLC	1-1392-58392	clinic
Dash Cedar, LLC	1-1393-18458	cloud
Cotton Fields, LLC	1-1407-41397	corp
Trixy Canyon, LLC	1-1411-59458	cpa
Snow Shadow, LLC	1-1410-93823	credit
Binky Frostbite, LLC	1-1412-63109	creditcard

GAC Advice Response Form for Applicants



Romeo Birch, LLC	1-1605-75916	data
Puff House, LLC	1-1418-57248	degree
Tin Birch, LLC	1-1421-91857	dental
Outer Lake, LLC	1-1422-97537	dentist
Black Avenue, LLC	1-1425-38025	design
Pioneer Hill, LLC	1-1426-25607	diet
Dash Park, LLC	1-1427-39640	digital
Holly Hill, LLC	1-1431-6328	discount
Brice Trail, LLC	1-1430-52453	doctor
Little Birch, LLC	1-1434-1370	eco
Romeo Canyon, LLC	1-1436-74788	engineering
Spring Falls, LLC	1-1445-68403	exchange
Atomic Pipe, LLC	1-1448-73190	fail
Goose Glen, LLC	1-1449-26710	fan
Big Dynamite, LLC	1-1455-48217	fashion
Outer Avenue, LLC	1-1452-20905	film
Cotton Cypress, LLC	1-1454-18725	finance
Just Cover, LLC	1-1453-71764	financial
Brice Orchard, LLC	1-1457-79967	fitness
Over Keep, LLC	1-1465-93738	free
John Castle, LLC	1-1467-34522	fund
Foggy Beach, LLC	1-1470-40168	games
Extra Dynamite, LLC	1-1477-91047	gmbh
Pioneer Tigers, LLC	1-1481-2922	gratis
Corn Sunset, LLC	1-1486-63504	gripe
Goose Fest, LLC	1-1489-82287	health
Silver Glen, LLC	1-1492-32589	healthcare
Baxter Sunset, LLC	1-1271-68369	inc
Auburn Park, LLC	1-1512-20834	insurance
Pioneer Willow, LLC	1-1516-617	insure
Holly Glen, LLC	1-1521-75718	investments
Goose Gardens, LLC	1-1522-61364	juegos
Corn Dynamite, LLC	1-1523-55821	law
Atomic Station, LLC	1-1531-96078	lawyer
Victor Trail, LLC	1-1540-49920	lease
Blue Falls, LLC	1-1536-79233	legal
Big Fest, LLC	1-1542-96415	limited
Foggy North, LLC	1-1546-93002	llc
June Woods, LLC	1-1544-18264	loans
Over Corner, LLC	1-1550-65638	ltd
Victor Way, LLC	1-1553-52336	market

GAC Advice Response Form for Applicants



Lone Hollow, LLC	1-1556-47497	mba
Grand Glen, LLC	1-1560-69674	media
Steel Hill, LLC	1-1561-23663	medical
Outer McCook, LLC	1-1567-79679	money
Outer Gardens, LLC	1-1564-75367	mortgage
New Frostbite, LLC	1-1570-42842	movie
Victor Cross, LLC	1-1571-12951	music
Hidden Bloom, LLC	1-1573-27315	news
Bitter Frostbite, LLC	1-1574-83272	online
Foggy Sky, LLC	1-1585-29698	pictures
Binky Mill, LLC	1-1587-4615	poker
Tin Dale, LLC	1-1593-8224	radio
Dash Bloom, LLC	1-1598-77594	realty
New Cypress, LLC	1-1606-68851	reisen
Half Bloom, LLC	1-1617-57149	sale
Delta Orchard, LLC	1-1624-75239	sarl
Little Galley, LLC	1-1622-67844	school
Outer Moon, LLC	1-1627-1624	schule
Snow Beach, LLC	1-1633-36635	show
Over Birch, LLC	1-1621-97265	software
Foggy Sunset, LLC	1-1619-92115	spa
Dog Bloom, LLC	1-1596-35125	sucks
Tin Avenue, LLC	1-1569-96051	surgery
Storm Orchard, LLC	1-1562-9879	tax
Blue Tigers, LLC	1-1641-67063	theater
Sugar Station, LLC	1-1648-61876	tours
Koko Moon, LLC	1-1655-79604	town
Pioneer Orchard, LLC	1-1650-66027	toys
Little Manor, LLC	1-1654-94203	trading
Little Station, LLC	1-1651-77163	university
Wild Dale, LLC	1-1642-14231	vet
Holly Shadow, LLC	1-1538-23177	vin
Lone Tigers, LLC	1-1480-90854	video
June Station, LLC	1-1515-14214	wine
Hidden Way, LLC	1-1508-57100	wtf

Donuts, the parent of the applicants for the above-listed gTLDs, appreciates the opportunity to comment on the GAC's Buenos Aires communiqué related to its Category 1 Safeguard Advice as well as on certain strings addressed in the communiqué.

Response:

Timing

As we have commented prior, Donuts firmly believes the time for developing policy relating to the New gTLD Program is long-since over, and ICANN's focus should be on completing the program's implementation. The contract between ICANN and applicants—the Applicant Guidebook—cites the following about GAC advice: “To be considered by the Board, the GAC advice on new TLDs must be submitted by the close of the objection filing period.” This period ended in March 2013.

The GAC's Beijing advice arrived in April, after its deadline. Nonetheless, the Board, staff, applicants and community worked in good faith to address GAC concerns. Today, however (approaching one year after the GAC's deadline), any new advice should not be part of the new gTLD process—the GAC certainly may advise the Board on any issue at any time, but new policy must go through the bottom-up, multi-stakeholder process and **apply to all TLDs**, not just new entrants.

Category 1 Strings

Donuts supports the efforts of the New gTLD Program Committee's (NGPC) to finalize the Category 1 safeguard issue, as detailed in ICANN Chairman Steve Crocker's letter of 29 October 2013 to GAC Chair Heather Dryden,¹ and reiterated in the NGPC's interaction with the GAC in Buenos Aires on 17 November 2013.²

In reviewing Dr. Crocker's letter, Donuts believes the NGPC's modifications to safeguard language are appropriate and recognize the realities of operational implementation. Thus, Donuts encourages the Board to consider the Category 1 issue resolved.

.DOCTOR

Notwithstanding the advice of the GAC, the .DOCTOR TLD should not be categorized in the list of gTLDs that represent highly regulated industries nor should it be restricted to only licensed medical doctors.

The generic term simply has wider utility than its application to such credentialed practitioners (in fact, its origin in Latin refers to “teacher,” “advisor,” or “scholar”). We respectfully point out that there are approximately 62,000 uses of the term “doctor” in the .COM gTLD, many having nothing to do with physicians. As ICANN Board member Chris Disspain noted in the NGPC-GAC meeting in Buenos Aires:

“...in many, many countries, the term “doctor” is used as a name of businesses. A computer doctor. If you -- There are often -- It's a term that is used. It's not a regulated term. It's a term that is used in business names, in company names for people who fix things. And there is no prohibition on the use of that term. It is an open term. And the reason is because it's actually a medical doctor, and the -- I mean, there are all sorts of reasons.”

Indeed, “doctor” can refer to other types of academic credentials—Doctor of Philosophy, Juris Doctor, or Doctor of Dental Surgery, for example. Some registrants use “doctor” names to review medical doctors or provide directories of medical doctors. They are not licensed medical practitioners, but certainly have the right to continue to use the DNS to provide important information in a lawful manner.

¹ <http://www.icann.org/en/news/correspondence/crocker-to-dryden-3-29oct13-en>

² <http://buenosaires48.icann.org/en/schedule/sun-gac-ngpc/transcript-gac-ngpc-17nov13-en>

GAC Advice Response Form for Applicants



As a business term, it is widely used without harm. Examples include:

<u>Name</u>	<u>Usage</u>
DoctorSmith.com	Products for infants
RugDoctor.com	Carpet cleaning supplies and services
DoctorReferral.org	Medical transcription services
HTML5Doctor.com	IT services
ShockDoctor.com	Sports equipment
DrillDoctor.com	Drill bit sharpening products
StudentDoctor.net	Information about medical schools
TheBikeDoctor.net	Bicycle repair services
ServiceDoctor.net	Home renovations
TheWichDoctor.net	Restaurant

This list is but a sampling produced by a search engine query on the term “doctor.” Donuts conducted research on a random sample of 100 registrations in existing zone files to further demonstrate this point.

This list is but a sampling produced by a search engine query on the term “doctor.” Additionally, Donuts conducted research on a random sample of 100 registrations in existing zone files to further demonstrate this point. Of the 100 randomly selected domain names containing the generic word “doctor,” no more than half appear to have been registered by a licensed medical practitioner and include domain names such as:

SocialCreditDoctor.com
QuantumSpinDoctors.com (Ph.D.s)
InternetCarDoctor.com
FireplaceDoctorInc.com
TopDoctorsSouthwestFla.com (Doctor reviews)
BicycleDoctorNYC.com

These alternative uses are perfectly legitimate and should not be the subject of discriminatory restriction. Donuts respectfully points out that registrations in .DOCTOR are already protected by law (in multiple jurisdictions) against unlawful use. Persons representing themselves as licensed medical doctors when they are not are subject to prosecution. Enforcement against the potential few that attempt such a representation via a domain name logically should be applied after such a registration is so identified—not in a manner that demands justification of use before the name is registered.

The availability of protections via public interest commitment specifications (as requested by the GAC and granted by the Board)³ should not be overlooked. While the additions to Specification 11 of the New gTLD Registry Agreement is extensive, the following are particularly applicable:

1. *Registry operators will include a provision in their Registry-Registrar Agreements that requires Registrars to include in their Registration Agreements a provision **requiring registrants to comply with all applicable laws**, including those that relate to privacy, data collection, consumer protection (**including in relation to misleading and deceptive conduct**), fair lending, debt collection, organic farming, disclosure of data, and financial disclosures.*
2. *Registry operators will include a provision in their Registry-Registrar Agreements that **requires registrars at the time of registration to notify registrants of the requirement to comply with all applicable laws.***

Registrants who contemplate deceptive behavior are thus not only sufficiently forewarned, but are subject to all applicable law and remediation of problem behavior.

It should be clear to the Board that, given protections available to the gTLD, it should not restrict .DOCTOR to one use of the generic term. The ICANN Board should not create new law by censoring specific uses of a generic term or by picking and choosing between various business models of different applicants. This term was not restricted in the AGB, it is not restricted by law, and the ICANN policy should not be altered to restrict the TLD at this point.

.WINE and .VIN

The matter of protection of geographic indicators (GIs) in .WINE and .VIN has been in discussion for some time now.

Donuts notes that the GAC's communication stands on this issue. On 12 September 2013, the GAC concluded:

"With reference to Module 3.1.1 of the Applicant Guidebook and the Durban Communiqué 2.a regarding .wine and .vin, the GAC advises the ICANN Board that the GAC has finalized its considerations of the strings .wine and .vin and further advises that the applications should proceed through the normal evaluation process."⁴

The Buenos Aires communiqué did not reverse that advice, and Donuts believes the applications should continue to proceed. We further observe that GIs have long been the subject of extensive and sometimes complex trade agreements between regions and countries. As the GAC noted in its Buenos Aires communiqué, some GAC members "consider that it would be inappropriate and a serious concern if the agreed international settings on GIs were to be redesigned by ICANN."

Further, we remind the Board that adequate mandatory protections are in place. As noted by the Australian and US governments, while domain names could be used in a deceptive or misleading way, the GAC anticipated such scenarios in its work on safeguards for sensitive gTLDs. It is their belief these safeguards are sufficient to address concerns about the treatment of GIs in .WINE and .VIN.

³ See pp. 3-4 of the Crocker to Dryden letter of 29 October 2013, and <http://www.icann.org/en/groups/board/documents/resolutions-new-gtld-annex-ii-agenda-2b-25jun13-en.pdf>

⁴ <https://gacweb.icann.org/display/gacweb/Governmental+Advisory+Committee>

They further believe poorly formed additional safeguards could impact free speech, restrict trade, affect the commercial viability of the TLDs, or apply the law of one jurisdiction to another.

.SPA

Donuts restates its previously articulated position:

- Donuts did not declare in its application for .SPA that it intends the TLD to be associated with the City of Spa. Further, it is clear from the application (and our intent) that the primary purpose of the TLD is not related to the city.

According to the Applicant Guidebook (Sec. 2.2.1.4.2):

The following types of applied-for strings are considered geographic names and must be accompanied by documentation of support or non-objection from the relevant governments or public authorities:

2. *An application for a city name, where the applicant declares that it intends to use the gTLD for purposes associated with the city name. City names present challenges because city names may also be generic terms or brand names, and in many cases city names are not unique. Unlike other types of geographic names, there are no established lists that can be used as objective references in the evaluation process. Thus, city names are not universally protected. However, the process does provide a means for cities and applicants to work together where desired. An application for a city name will be subject to the geographic names requirements (i.e., will require documentation of support or non-objection from the relevant governments or public authorities) if:*

(a) It is clear from applicant statements within the application that the applicant will use the TLD primarily for purposes associated with the city name; and

(b) The applied-for string is a city name as listed on official city documents.

B is footnoted with the following:

City governments with concerns about strings that are duplicates, nicknames or close renderings of a city name should not rely on the evaluation process as the primary means of protecting their interests in a string. Rather, a government may elect to file a formal objection to an application that is opposed by the relevant community, or may submit its own application for the string.

The gTLD is *not* targeted to the City of Spa, city officials did not elect to lodge an objection to the application, and ICANN and its independent geographic evaluation panelists did not require city approval of our .SPA application. As such, it is inappropriate for our application to be held hostage on the basis of a city government's perceived harm.

- Other applications for various city names (that also are generic dictionary terms) have not been delayed. These include .TOURS (France), .PINK (Oklahoma, US), and .ORANGE

(multiple cities worldwide.

- Notwithstanding, Donuts has voluntarily agreed to provide the City of Spa with additional safeguards, including the ability of the city to block the registration of certain domain names, the ability of the city to register certain domain names, and a term of use covering the entire gTLD that would help protect the city's interests, . We are awaiting the city's reply to the specific measures we propose to implement should we become the Registry Operator. We will not, however, agree to "compensate" the city with a portion of revenue from registry operations as it requested. We refer you to our GAC advice reply for additional information.⁵

IGO/INGO Protection

Donuts participated extensively in the bottom-up, multi-stakeholder GNSO process that produced the community's advice to the Board regarding protection of IGO and INGO names and acronyms.⁶

On the basis of that experience, we believe the working group carefully considered multiple points of view and it arrived at a strong set of recommendations, which the community well supports, even if there remain pockets of disagreement. This is a very good example of where the bottom-up, multi-stakeholder process performs admirably and efficiently.

Donuts supports the recommendations in the final report, regards the report as a reaffirming of the ICANN process, and urges the Board to adopt the GNSO Council's recommendations, and reject any advice that differs from such community recommendations.

Conclusion

We thank the Board for the opportunity to comment on the issues above and invite your questions should they arise.

⁵ <http://newgtlds.icann.org/sites/default/files/applicants/28aug13/gac-advice-response-1-1619-92115-en.pdf>

⁶ <http://gnso.icann.org/en/issues/igo-ingo-final-10nov13-en.pdf>